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# REPORT OF THE UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW ON THE WORK OF ITS TWENTY-SEVENTH SESSION

## Report of the Sixth Committee

Rapporteur: Mrs. Silvia A. FERNÁNDEZ de GURMENDI (Argentina)

## I. INTRODUCTION

1. The item entitled "Report of the United Nations Commission on International Trade Law on the work of its twenty-seventh session" was included in the provisional agenda of the forty-ninth session of the General Assembly pursuant to Assembly resolution 48/32 of 9 December 1993.

2. At its 3rd plenary meeting, on 23 September 1994, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. For its consideration of the item, the Sixth Committee had before it the following documents:

(a) Report of the United Nations Commission on International Trade Law on the work of its twenty-seventh session; 1/

(b) Report of the Secretary-General on the implementation of paragraphs 5 and 6 of resolution 48/32 (A/49/427).

4. The Sixth Committee considered the item at its 3rd to 5th, 36th and 37th meetings, on 26, 29 and 30 September and 16 and 17 November 1994. The summary

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1/ Official Records of the General Assembly, Forty-ninth Session, Supplement No. 17 and corrigendum (A/49/17 and Corr.1).

records of those meetings contain the views of the representatives who spoke during the Committee's consideration of the item (A/C.6/48/SR.3-5, 36 and 37).

5. At the 3rd meeting, on 26 September, the Chairman of the United Nations Commission on International Trade Law at its twenty-seventh session, introduced the Commission's report on the work of that session.

6. At the 5th meeting, on 30 September, the Chairman of the Commission made a closing statement.

## II. CONSIDERATION OF PROPOSALS

### A. Draft resolution A/C.6/49/L.11

7. At the 36th meeting, on 16 November, the representative of Austria, on behalf of Argentina, Australia, Austria, Azerbaijan, Belarus, Belgium, Belize, Cambodia, Canada, Cyprus, the Czech Republic, Denmark, the Dominican Republic, Finland, France, Germany, Honduras, Hungary, Italy, Morocco, Nicaragua, Norway, Poland, Portugal, the Russian Federation, Singapore, Slovakia, Sweden, Thailand, Ukraine and the United Kingdom of Great Britain and Northern Ireland, introduced a draft resolution entitled "Model Law on Procurement of Goods, Construction and Services of the United Nations Commission on International Trade Law" (A/C.6/49/L.11). Subsequently, Bulgaria and Guatemala joined in sponsoring the draft resolution.

8. At its 37th meeting, on 17 November, the Committee adopted draft resolution A/C.6/49/L.11 without a vote (see para. 12, draft resolution I).

### B. Draft resolution A/C.6/49/L.13

9. At the 36th meeting on 16 November, the representative of Austria, on behalf of Algeria, Argentina, Australia, Austria, Belgium, Belize, Brazil, Cambodia, Canada, China, Cyprus, the Czech Republic, Denmark, the Dominican Republic, Finland, France, Germany, Greece, Honduras, Hungary, Italy, Japan, Morocco, Myanmar, Nicaragua, Norway, Portugal, Singapore, Slovakia, Sweden and Thailand, introduced a draft resolution entitled "Report of the United Nations Commission on International Trade Law on the work of its twenty-seventh session" (A/C.6/49/L.13). Subsequently, Guatemala, Iceland, India, Turkey and Uruguay joined in sponsoring the draft resolution.

10. At its 37th meeting, on 17 November, the Committee adopted draft resolution A/C.6/49/L.13 without a vote (see para. 12, draft resolution II).

11. The representative of the Russian Federation made a statement in explanation of position after the adoption of the draft resolution (see A/C.6/49/SR.37).

## III. RECOMMENDATIONS OF THE SIXTH COMMITTEE

12. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

### DRAFT RESOLUTION I

### Model Law on Procurement of Goods, Construction and Services of the United Nations Commission on International Trade Law

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it created the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Noting that procurement constitutes a large portion of public expenditure in most States,

Recalling the completion and adoption by the United Nations Commission on International Trade Law at its twenty-sixth session of the Model Law on Procurement of Goods and Construction, 2/

Recalling also the decision of the Commission at the twenty-sixth session to draw up model legislative provisions on procurement of services, while leaving intact the Model Law on Procurement of Goods and Construction of the United Nations Commission on International Trade Law,

Noting that model legislative provisions on procurement of services establishing procedures designed to foster integrity, confidence, fairness and transparency in the procurement process will also promote economy, efficiency and competition in procurement and thus lead to increased economic development,

Being of the opinion that the establishment of model legislative provisions on procurement of services that are acceptable to States with different legal, social and economic systems contributes to the development of harmonious international economic relations,

Convinced that model legislative provisions on services contained in a consolidated text dealing with procurement of goods, construction and services will significantly assist all States, including developing countries and States whose economies are in transition, in enhancing their existing procurement laws and formulating procurement laws where none presently exist,

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2/ Official Records of the General Assembly, Forty-eighth Session, Supplement No. 17 and corrigendum (A/48/17 and Corr.1), annex I.

1. Takes note with satisfaction of the completion and adoption by the United Nations Commission on International Trade Law of the Model Law on Procurement of Goods, Construction and Services 3/ together with the Guide to Enactment of the Model Law; 4/

2. Recommends that, in view of the desirability of the improvement and uniformity of the laws of procurement, all States give favourable consideration to the Model Law when they enact or revise their procurement laws;

3. Recommends also that all efforts be made to ensure that the Model Law together with the Guide become generally known and available.

DRAFT RESOLUTION II

Report of the United Nations Commission on International Trade Law on the work of its twenty-seventh session

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it created the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Reaffirming its conviction that the progressive harmonization and unification of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the developing countries, would significantly contribute to universal economic cooperation among all States on a basis of equality, equity and common interest and to the elimination of discrimination in international trade and, thereby, to the well-being of all peoples,

Stressing the value of participation by States at all levels of economic development and from different legal systems in the process of harmonizing and unifying international trade law,

Having considered the report of the United Nations Commission on International Trade Law on the work of its twenty-seventh session, 5/

Mindful of the valuable contribution to be rendered by the Commission within the framework of the United Nations Decade of International law, inter alia, as regards the dissemination of international trade law,

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3/ Ibid., Forty-ninth Session, Supplement No. 17 (A/49/17), annex I.

4/ A/CN.9/394.

5/ Official Records of the General Assembly, Forty-ninth Session, Supplement No. 17 and corrigendum (A/49/17 and Corr.1).

Concerned about the relatively low incidence of expert representation from developing countries at sessions of the Commission and particularly of its working groups during recent years, owing in part to inadequate resources to finance the travel of such experts,

Having considered the report of the Secretary-General, 6/

Concerned about the fact that the need for and interest in the training and assistance programme of the Commission can only partially be met, in view of the limited human and financial resources available, and that the work of the Secretariat in the context of the Case-Law on the United Nations Commission on International Trade Law Texts would substantially increase as the number of the court decisions and arbitral awards covered thereby grows,

1. Takes note with appreciation of the report of the United Nations Commission on International Trade Law on the work of its twenty-seventh session;

2. Welcomes the ongoing work of the Commission, as described in its report on the work of its twenty-seventh session and appreciates the many proposals on possible future work made during the Congress on International Trade Law of the United Nations Commission on International Trade Law, held in New York from 18 to 22 May 1992;

3. Reaffirms the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field in order to avoid duplication of effort and to promote efficiency, consistency and coherence in the unification and harmonization of international trade law, and, in this connection, recommends that the Commission, through its secretariat, continue to maintain close cooperation with the other intergovernmental and non-governmental organizations, including regional organizations, active in the field of international trade law;

4. Also reaffirms the importance, in particular for developing countries, of the work of the Commission concerned with training and assistance in the field of international trade law;

5. Expresses the desirability for the Commission to sponsor seminars and symposia to provide such training and assistance, and, in this connection:

(a) Expresses its appreciation to the Commission for organizing seminars in Argentina, Brazil, Mongolia, Kyrgyzstan, Pakistan, Turkey and Sri Lanka, as well as in Botswana, Kenya, Namibia, Uganda, the United Republic of Tanzania and Zimbabwe, and for assisting the Pacific Economic Cooperation Council with its initiative to provide harmonization of international trade law in the Asia-Pacific region;

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6/ A/49/427.

(b) Expresses its appreciation to the Governments whose contributions enabled the seminars to take place, and appeals to Governments, the relevant United Nations organs, organizations, institutions and individuals to make voluntary contributions to the trust fund for the United Nations Commission on International Trade Law symposia and, where appropriate, to the financing of special projects, and otherwise to assist the secretariat of the Commission in financing and organizing seminars and symposia, in particular in developing countries, and in the award of fellowships to candidates from developing countries to enable them to participate in such seminars and symposia;

(c) Appeals to the United Nations Development Programme and other United Nations bodies responsible for development assistance to support the training and technical assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission;

6. Welcomes the completion of the setting up of the trust fund for the United Nations Commission on International Trade Law to grant travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General, pursuant to paragraph 5 of its resolution 48/32 of 9 December 1993;

7. Appeals to Governments, the relevant United Nations organs, organizations, institutions and individuals, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to make voluntary contributions to the trust fund referred to in paragraph 6 above;

8. Decides, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to continue its consideration in the competent Main Committee during the forty-ninth session of the General Assembly on granting travel assistance, within existing resources, to the least developed countries that are members of the Commission, at their request and in consultation with the Secretary-General;

9. Requests the Secretary-General to ensure that adequate resources are allocated for the effective implementation of the programmes of the Commission;

10. Stresses the importance of bringing into effect the conventions emanating from the work of the Commission for the global unification and harmonization of international trade law, and to this end urges States that have not yet done so to consider signing, ratifying or acceding to those conventions;

11. Requests the Secretary-General to submit a report on the implementation of paragraph 8 above to the General Assembly at its fiftieth session.

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